

INTERIM RULEMAKING NOTICE FORM

Proposed Interim Rule
Number

2018-26

Rule Number

He-W 837

1. Agency Name & Address: Dept. of Health & Human Services Division of Public Health Services Food Protection Services 29 Hazen Drive Concord, NH 03301	2. RSA Authority: RSA 126-AA:2, III(b) intro. & (b)(4) 3. Federal Authority: 42 U.S.C. 1315, Pub.L. 111-148, 42 U.S.C 1396(a)(10)(A)(i)(VIII) 4. Type of Action: Adoption <u> X </u> Amendment <u> </u> Repeal <u> </u> Readoption <u> </u> Readoption w/amendment <u> </u>
5. Filing Date: December 6, 2018	

6. Short Title: **NH Granite Advantage Health Care Program**

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

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TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

The proposed rules may be viewed and downloaded at:

<http://www.dhhs.nh.gov/oos/aru/comment.htm>

8. Summary explaining the effect of the rule:

The proposed new rule, He-W 837, describes the community engagement requirements for the Granite Advantage program, exemptions from the work and community engagement program, qualifying activities for community engagement, impacts of noncompliance with the community engagement requirement, and how to cure deficit community engagement hours.

In 2018, Chapter Law 342 (SB 313) replaced the New Hampshire Health Protection Program (NHHPP), which expires on 12/31/18, with the Granite Advantage Health Care Program (Granite Advantage) under RSA 126-AA effective on January 1, 2019. In accordance with SB 313, the Department of Health and Human Services filed a waiver amendment and extension with the Centers for Medicare and Medicaid Services (CMS) to continue its existing authority to implement work and community engagement requirements as a condition of continued eligibility under section 1902(a)(10)(A)(i)(VIII) [42 U.S.C 1396(a)(10)(A)(i)(VIII)] of the Social Security Act. The waiver was approved by CMS on November 30, 2018. The Department is entering into interim rulemaking in order to meet the NH statutory requirement to implement the program on 1/1/19.

9. Listing of people, enterprises, and government agencies affected by the rule:

The proposed rule affects the newly eligible Medicaid beneficiaries who are currently receiving their Medicaid benefits through the NH Health Protection Program. These beneficiaries will be transitioned to the Granite Advantage Health Care Program and if not otherwise exempted, be required to engage in 100 hours per month of qualifying community engagement activities as a condition of eligibility for Granite Advantage.

10. Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement.

Rule Section	Statute Implemented
He-W 837.01	RSA 126-AA; 42 U.S.C. §12101 et seq.; Pub. L. No. 93-112; Pub. L. 111-148; 42 CFR 435.916
He-W 837.02	42 CFR 435.603(a)-(h)
He-W 837.03	RSA 126-AA
He-W 837.04	RSA 126-AA; RSA 167:82,II(g); 42 CFR 435.4; 42 CFR 440.315(f)
He-W 837.05	RSA 126-AA; RSA 167:3-i; RSA 167:6, IV-VI; RSA 167:3-e; RSA 167:3-f; §1902(a)(10)(A)(ii)(XV); 42 CFR 435.4; 42 CFR 435.121; §1902(e)-(f); §1915(c); 42 U.S.C. Chapter 7; 42 U.S.C. 1381 et seq.
He-W 837.06	RSA 126-AA
He-W 837.07	RSA 126-AA; RSA 641:3; RSA 167:82,II(g)
He-W 837.08	RSA 126-AA; 45 CFR 475
He-W 837.09	RSA 126-AA; 45 CFR 400.75
He-W 837.10	RSA 126-AA; 42 U.S.C. §12101 et seq.
He-W 837.11	RSA 126-AA
He-W 837.12	RSA 126-AA; 24 CFR 5.2005; 24 CFR 5.2009
He-W 837.13	RSA 126-AA
He-W 837.14	RSA 126-AA; 24 CFR 5.2005; 24 CFR 5.2009
He-W 837.15	RSA 126-AA
He-W 837.16	RSA 126-AA
He-W 837.17	RSA 126-AA
He-W 837.18	RSA 126-AA
He-W 837.19	RSA 126-AA
He-W 837.20	RSA 126-AA
He-W 837.21	RSA 126-AA
He-W 837.22	RSA 126-AA; 42 CFR 435.916(f)
He-W 837.23	RSA 126-AA
He-W 837.24	RSA 126-AA
He-W 837.25	RSA 126-AA

11. Summary of the effect upon the state if the rule were not adopted:

If the interim rule were not adopted, the Department would not be able to implement the requirements of Chapter Law 342:1, Laws of 2018 (SB 313).

12. Proposed date of review by the Joint Legislative Committee on Administrative Rules:

December 20, 2018

13. The fiscal impact statement prepared by the Legislative Budget Assistant, if applicable.

FIS # 18:203, dated November 29, 2018

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

Not applicable, as this is a new rule.

2. Cite the Federal mandate. Identify the impact of state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

There is no cost or benefit to the propose rule. Any cost or benefit is attributable to Chapter 342:1, Laws of 2018.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To Independently owned businesses:

None.

Adopt He-W 837 cited and to read as follows:

CHAPTER He-W 800 ELIGIBILITY FOR MEDICAL ASSISTANCE

PART He-W 837 GRANITE ADVANTAGE HEALTH CARE PROGRAM

He-W 837.01 Definitions.

- (a) “Beneficiary” means an individual determined eligible and currently receiving medicaid.
- (b) “Commissioner” means the commissioner of the NH department of health and human services, or his or her designee.
- (c) “Community engagement requirement” means a condition of continuing eligibility for the granite advantage health care program (granite advantage) that requires 100 hours per calendar month in one or more community engagement activities.
- (d) “Cure” means satisfying the community engagement requirement for a noncompliant month by: making up the deficit hours for the month that resulted in noncompliance, demonstrating good cause, or providing verification of an exemption status.
- (e) “Deficit hours” means the number of hours that represents the difference between the 100 hour per calendar month community engagement requirement and the actual number of hours per calendar month that the beneficiary participated in a qualifying community engagement activity.
- (f) “Department” means the New Hampshire department of health and human services.
- (g) “Disability” means disability as defined by the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, or Section 1557 of the Patient Protection and Affordable Care Act.
- (h) “Disenrollment” means the termination of medicaid eligibility at annual redetermination of a suspended beneficiary.
- (i) “Exempt” means the beneficiary is not required to participate in the community engagement requirement.
- (j) “Granite advantage health care program (granite advantage)” means the granite advantage health care program established under RSA 126-AA.
- (k) “Immediate family member” means a spouse, children, mother-in-law, father-in-law, parents, step-parents, step-children, step-brothers, step-sisters, grandparents, grandchildren, brothers, sisters, legal guardians, daughters-in-law, sons-in-law and foster children.
- (l) “Mandatory” means the beneficiary is required to participate in the community engagement requirement.
- (m) “Medical professional” means a licensed physician, a licensed advanced practice registered nurse (APRN), a licensed behavioral health professional, a licensed physician assistant, a licensed drug and alcohol counselor (LDAC), or a board-certified psychologist.

(n) “Medicaid” means the Title XIX and Title XXI programs administered by the department, which makes medical assistance available to eligible individuals.

(o) “Medically frail” means an individual eligible under granite advantage who is exempt from the community engagement requirement for 12 months and is certified as medically frail by a medical professional.

(p) “Noncompliant” means a status where a beneficiary failed to meet the 100 hour per calendar month community engagement requirement.

(q) “Redetermination” means the annual medicaid eligibility renewal process required by 42 CFR 435.916.

(r) “Voluntary” means a community engagement status in which an exempt beneficiary is not required to participate in the community engagement requirement but chooses to do so.

He-W 837.02 Medicaid Eligibility. Medicaid eligibility for the granite advantage population shall be determined in accordance with the requirements of 42 CFR 435.603 (a)-(h).

He-W 837.03 Community Engagement Requirement. Unless exempt under He-W 837.04 below or able to demonstrate good cause under He-W 837.12, beneficiaries enrolled in granite advantage shall engage in at least 100 hours per calendar month in one or more community engagement activities as a condition of their continued eligibility for the program.

He-W 837.04 Exemptions.

(a) Beneficiaries meeting one or more of the following exemptions shall not be required to complete community engagement qualifying activities to maintain eligibility and shall complete the verifications and attestations indicated for the exemption type in He-W 837.07 below:

(1) Beneficiaries who are unable to participate in the requirements due to illness, incapacity, or treatment, including inpatient or residential outpatient treatment, as certified by a medical professional;

a. This exemption shall include the beneficiary’s participation in inpatient and residential outpatient substance use disorder treatment or in intensive outpatient substance use disorder services that is consistent with Levels 2.1 and above as found in the American Society of Addiction Medicine (ASAM) Criteria: Treatment Criteria for Substance-Related, Addictive, and Co-Occurring Conditions, Third Edition (2013), henceforth referred to as “ASAM Criteria 2013”, available as noted in Appendix A;

(2) Beneficiaries who are participating in a state-certified drug court program as certified by the administrative office of the superior court;

(3) A custodial parent or caretaker as defined in RSA 167:82, II(g) where the required care is considered necessary by a medical professional that such care is required;

(4) A custodial parent or caretaker of a dependent child under 6 years of age provided that the exemption shall only apply to one parent or caretaker of a common child or children in the case of a 2-parent household;

- (5) A custodial parent or caretaker of a child with developmental disabilities who is residing with the parent or caretaker;
 - (6) Pregnant women as defined in 42 CFR 435.4 whose circumstance or condition is not previously known to the department;
 - (7) Beneficiaries with a disability who are unable to comply with the community engagement requirement due to disability-related reasons;
 - (8) Beneficiaries residing with an immediate family member who has a disability and is unable to meet the community engagement requirement for reasons related to the disability of that family member;
 - (9) Beneficiaries who experience a hospitalization or serious illness;
 - (10) Beneficiaries residing with an immediate family member who experiences a hospitalization or serious illness;
 - (11) Beneficiaries who are identified as medically frail, under 42 CFR section 440.315(f), and as defined in the alternative benefit plan and in the medicaid state plan and who are certified by a medical professional to be unable to comply with the community engagement requirement as a result of their condition as medically frail;
 - (12) Beneficiaries who are receiving Supplemental Nutrition Assistance Program (SNAP) benefits and who are exempt from the program's employment requirements;
 - (13) Beneficiaries who are receiving temporary assistance for needy families (TANF) benefits and who are exempt from the program's employment requirements; or
 - (14) Beneficiaries who are enrolled in New Hampshire's voluntary health insurance premium program (HIPP) and whose status or eligibility has not been automatically determined by the department.
- (b) A beneficiary who is otherwise exempt may request to participate voluntarily in the community engagement program.

He-W 837.05 Automatic Exemptions.

- (a) Beneficiaries who fall within one or more of the following categories based on the information available in the department's eligibility system(s) shall be automatically exempted from the community engagement requirement:
- (1) Beneficiaries who are approved by the department for aid to the permanently and totally disabled (APTD), aid to the needy blind (ANB), medicaid for employed adults with disabilities (MEAD) nursing facility, home and community based services (HCBS) or home care for children with severe disabilities through age 20 (HC-CSD);
 - (2) Beneficiaries who are receiving supplemental security income (SSI), social security disability income (SSDI), railroad disability or veteran disability benefits;
 - (3) Beneficiaries who are pregnant as defined in 42 CFR 435.4;

- (4) A beneficiary who is a custodial parent or caretaker for a dependent child under 6 provided that the exemption shall only apply to one parent or caretaker in the case of a 2-parent household;
 - (5) A beneficiary who is a custodial parent or caretaker of a child with developmental disabilities who is residing with the parent or caretaker and who is currently approved by the department for services under the home and community based services developmental disability waiver (HCBS-DD);
 - (6) Beneficiaries who are receiving SNAP benefits and who are exempt from the program's employment requirements;
 - (7) Beneficiaries who are receiving TANF benefits and who are exempt from the program's employment requirements; and
 - (8) Beneficiaries who are enrolled in HIPP.
- (b) An automatic exemption shall continue for as long as the particular circumstance continues to exist.
- He-W 837.06 Request for Exemption. A request for an exemption from the community engagement requirement shall be made by completing and submitting the community engagement exemption request form BFA Form 330 "Exemption Request Form- Granite Advantage Health Care Program" (01/19) along with any required third party verification to the department.
- He-W 837.07 Attestation and Verification of Request for Exemption; Duration of Exemptions.
- (a) All beneficiaries requesting an exemption shall attest under penalty of unsworn falsification pursuant to RSA 641:3 on BFA Form 330 "Exemption Request Form- Granite Advantage Health Care Program" (01/19) that the information provided to the department in support of the request for an exemption is true to the best of the beneficiary's knowledge and belief.
- (b) In addition to the attestation required in (a) above, beneficiaries shall provide third party verification to the department for the following exemption types:
- (1) For beneficiaries unable to participate due to illness, incapacity or treatment under He-W 837.04(a)(1) above, certification by a medical professional specifying the duration and limitations of the illness, incapacity or treatment. The duration of the exemption shall be 1 month or the date range specified by the medical professional, whichever is longer;
 - (2) For beneficiaries participating in a state certified drug court program under He-W 837.04(a)(2), a copy of the court order requiring the person to participate in the drug court program. The duration of this exemption shall be 1 year from the date that the required verification is received;
 - (3) For a parent or caretaker as identified in RSA 167:82, II(g), where the required care is considered necessary under He-W 837.04(a)(3), certification by a medical professional that specifies the duration that such care is required. Unless specified otherwise by the medical professional, the duration of this exemption shall be 1 year from the date that the required verification is received;
 - (4) For a custodial parent or caretaker of a child with developmental disabilities who is residing with the parent or caretaker, certification by a medical professional of the child's

developmental disability. The duration of this exemption shall be for as long as the particular circumstance continues to exist;

(5) For beneficiaries with a disability who are unable to meet the community engagement requirements for reasons related to that disability under He-W 837.04(a)(7), annual certification by a medical professional of the person's inability to meet the community engagement requirement for reasons related to the disability. The duration of this exemption shall be 1 year from the date that the required verification is received;

(6) For persons with an immediate family member in the home with a disability and who is unable to meet the work requirement for reasons related to the disability of that family member under He-W 837.04(a)(8):

- a. Annual attestation of the beneficiary's inability to meet the community engagement requirement for reasons related to the disability of their family member;
- b. Annual certification by the family member's medical professional specifying the family member's disability; and
- c. The duration of this exemption shall be 1 year from the date that the required verification is received;

(7) For beneficiaries unable to participate due to hospitalization or serious illness under He-W 837.04(a)(9) copies of physician records, hospital records, admission or discharge summaries verifying the hospitalization or serious illness. The duration of this exemption shall be 1 month or the date range specified by the medical professional, whichever is longer;

(8) For beneficiaries who are unable to participate due to hospitalization or serious illness of an immediate family member, copies of the family member's physician records, hospital records, admission or discharge summaries verifying the hospitalization or serious illness. The duration of this exemption shall be 1 month or the date range specified by the medical professional, whichever is longer; and

(9) For beneficiaries identifying as medically frail under He-W 837.04(a)(11):

- a. Annual completion and submission of BFA Form 320A "Beneficiary Authorization for Licensed Medical Professional to Release Protected Health Information- Granite Advantage Health Care Program" (01/19); and
- b. Annual certification by a medical professional on BFA Form 331 "Licensed Medical Professional Certification of Medical Frailty" (01/19) indicating that the person is unable to comply with the work and community engagement requirement as a result of their condition including the duration of such disability. The duration of this exemption shall be 1 year from the date that the required verification is received.

(c) To the extent practicable, third party verification shall be submitted to the department with the community engagement exemption request BFA Form 330 "Exemption Request Form Granite Advantage Health Care Program" (01/19).

(d) A request for an exemption under this section shall not be considered complete until the required attestation and verification(s) are received by the department.

(e) Upon the expiration of an exemption, a beneficiary shall be entitled to the notice period provided for in He-W 837.16 before they are required to meet the 100-hour community engagement requirement.

He-W 837.08 Qualifying Community Engagement Activities.

(a) In order to maintain eligibility, beneficiaries who are not exempt under He-W 837.04 and He-W 837.05, shall participate for at least 100 hours per calendar month in one or more of the following qualifying community engagement activities:

- (1) Unsubsidized employment including by non-profit organizations;
- (2) Subsidized private sector employment;
- (3) Subsidized public sector employment;
- (4) On the job training;
- (5) Job skills training related to employment;
- (6) Enrollment at an accredited community college, college or university in New Hampshire that is counted on a credit hour basis;
- (7) Job search and job readiness assistance, including but not limited to participation in job search or job training activities offered through the department of employment security or through other job search or job readiness assistance program such as Workforce Innovation and Opportunity Act (WIOA) or work ready New Hampshire;
 - a. Time spent in any assessment, training, enrollment or case management activity that is necessary for participation under this section shall be credited as job search and job readiness assistance hours;
- (8) Vocational educational training not to exceed 12 months with respect to any beneficiary;
- (9) Education directly related to employment, in the case of a beneficiary who has not received a high school diploma or certificate of high school equivalency;
- (10) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a beneficiary who has not completed secondary school or received such a certificate;
- (11) Community service or public service except that community service or public service under this section shall not include services provided to or on behalf of a political organization or campaign;
- (12) Caregiving services for a non-dependent relative or other person with a disabling medical mental health or developmental condition;
- (13) Participation in ASAM Level 1 outpatient substance use disorder services, including medication assisted treatment, and recovery supports, as set forth in ASAM Criteria (2013);

- (14) Participation in and compliance with SNAP employment requirements;
- (15) Participation in and compliance with the TANF employment requirements; or
- (16) Participation in and compliance with the employment requirements of the refugee resettlement program pursuant to 45 CFR 400.75.

He-W 837.09 Verification of Community Engagement Activities and Credit Hours.

(a) Community engagement activities shall be verified and hours credited toward the community engagement requirement as follows:

- (1) For employment activities in He-W 837.08 (a) 1-4 above, employment information gathered during the application process or otherwise known to the department shall be used to determine a beneficiary's average monthly employment hours and shall be credited towards the community engagement requirement.
 - a. A temporary increase in monthly employment hours for seasonal or other work above the beneficiary's average monthly employment hours shall be reported as extra employment hours under He-W 837.15(a)(11).
 - b. A beneficiary shall report within 10 calendar days any increase or decrease in average monthly employment hours that will continue for more than one month or that will affect any other benefits the beneficiary is receiving pursuant to He-W 803.03 and He-W 603.03;
- (2) For job skills training related to employment under He-W 837.08(a)(7), documentation of enrollment that includes the duration and the number of hours the beneficiary is participating in the activity;
- (3) For enrollment at an accredited community college or university that is counted on a credit hour basis, documentation of enrollment that includes a copy of the beneficiary's class schedule, the number of credit hours assigned for the enrolled class(es) and the semester begin and end date.
 - a. The number of community engagement hours to be credited toward the community engagement requirement each month shall be determined by multiplying the number of credit hours assigned for the enrolled class(es) by 4.33;
- (4) For time spent participating in job search and job readiness efforts, monthly attestation of the type and duration of the activity shall be reported on BFA Form XXX "Reporting Qualifying Community Engagement Activities – Granite Advantage Health Care Program" (01/19);
- (5) For vocational educational training under He-W 837.08(a)(8), documentation of enrollment that includes the duration of the activity. Community engagement hours shall be credited at 100 hours per month for the duration of the beneficiary's verified participation in the activity not to exceed 12 months;

(6) For education directly related to employment, in the case of a beneficiary who has not received a high school diploma or certificate of high school equivalency under He-W 837.08(a)(9), documentation of enrollment that includes the duration of the activity. Community engagement hours shall be credited at 100 hours per month for the duration of the beneficiary's verified participation in the activity;

(7) For satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence under He-W 837.08(a)(10), documentation of enrollment that includes the duration of the activity. Community engagement hours shall be credited at 100 hours per month for the duration of the beneficiary's verified participation in the activity;

(8) For community service or public service under He-W 837.08(a)(11), attestation of where and when the community or public service was performed and the number of hours worked on BFA Form XXX "Reporting Qualifying Community Engagement Activities – Granite Advantage Health Care Program" (01/19). The attestation shall include contact information for the community service or public service agency;

(9) For caregiving services for a non-dependent relative or other person with a disabling medical mental health or developmental condition, attestation by the beneficiary as to the services provided including the name of the non-dependent relative or other person with a disabling condition and the number of hours of caregiving services provided;

(10) For participation in ASAM Level 1, as set forth in ASAM Criteria (2013), outpatient substance use disorder services, including medication assisted treatment, and recovery supports, attestation of the number of hours that the beneficiary participated in the services up to 40 hours per month;

(11) For system verified participation in and compliance with SNAP employment requirements, community engagement hours shall be credited at 100 hours per month for the duration of the beneficiary's verified participation in the program;

(12) For system verified participation in and compliance with TANF employment requirements, community engagement hours shall be credited at 100 hours per month for the duration of the beneficiary's verified participation in the program; and

(13) For participation in and compliance with the employment requirements of the refugee resettlement program pursuant to 45 CFR 400.75, systemic verification of legal status and enrollment in the program. Community engagement hours shall be credited at 100 hours per month for 12 months from the date of the beneficiary's entry into the United States.

He-W 837.10 Beneficiaries with Disabilities: Reasonable Modification.

(a) A beneficiary with a disability shall be entitled to reasonable modifications related to meeting the community engagement requirements.

(b) Reasonable modifications shall include:

(1) Exemption from participation where a beneficiary is unable to participate for disability-related reasons;

(2) Modification in the number of hours of participation required where the beneficiary is unable to participate for the otherwise required number of hours; or

(3) Support services necessary to participate, where participation is possible with supports and the department has appropriated and available funding for this purpose.

He-W 837.11 Noncompliance and Suspension of Eligibility.

(a) If a beneficiary fails to meet the required community engagement hours, the department shall provide written notice to the beneficiary that their medicaid eligibility shall be suspended at the end of the following month unless the beneficiary:

(1) Satisfies the community engagement requirement by making up the deficit hours for the month that resulted in noncompliance;

(2) Demonstrates good cause for the failure to meet the community engagement requirement in the noncompliant month;

(3) Provides verification of an exemption status; or

(4) Appeals the suspension pursuant to He-W 837.22.

He-W 837.12 Good Cause for Noncompliance With Community Engagement Requirement.

(a) The department shall not suspend eligibility if the beneficiary, who failed to meet the community engagement hours, qualifies for good cause to excuse that failure due to a circumstance that occurred in the month in which the beneficiary failed to meet their required community engagement hours and sufficient good cause hours are credited toward the community engagement requirement pursuant to He-W 837.15 below to make up the deficit hours.

(b) Good cause includes, but is not limited to the following verified circumstances:

(1) The beneficiary experiences the birth or death of a family member residing with the beneficiary;

(2) The beneficiary experiences severe inclement weather, including a natural disaster, and was unable to meet the requirement;

(3) The beneficiary has a family emergency or other life-changing event such as divorce;

(4) The beneficiary is a victim of domestic violence, dating violence, sexual assault or stalking consistent with definitions and documentation required under the Violence Against Women Reauthorization Act of 2013 under 24 CFR section 5.2005 and 24 CFR section 5.2009;

(5) The beneficiary is a custodial parent or caretaker of a child 6 to 12 years of age who, as determined by the commissioner on a monthly basis, is unable to secure child care in order to participate in qualifying community engagement either due to a lack of child care scholarship or the inability to obtain a child care provider due to capacity, distance, or another related factor;

- (6) The beneficiary has a disability and was unable to meet the requirement for reasons related to that disability, but was not exempted from community engagement requirements;
- (7) The beneficiary resides with an immediate family member who has a disability, and was unable to meet the requirement for reasons related to the disability of that family member, but was not exempted from community engagement requirements;
- (8) The beneficiary experienced a hospitalization or serious illness, but was not exempted from community engagement requirements;
- (9) The beneficiary resides with an immediate family member who experienced a hospitalization or serious illness, but the beneficiary was not exempted from community engagement requirements;
- (10) The beneficiary is homeless or unable to find stable housing; or
- (11) Other good cause for noncompliance with the community engagement requirement due to circumstances beyond the beneficiary's control including a temporary increase in monthly employment hours for seasonal or other work that is above the beneficiary's average monthly employment hours as determined in He-W 837.15(a)(11)(b). The reporting of additional employment hours as good cause under this section shall be limited to 2 consecutive months.

He-W 837.13 Requesting Good Cause for Noncompliance With the Community Engagement Requirement. A request for good cause for noncompliance with the community engagement requirement shall be made by completing and submitting BFA Form 340 "Good Cause Request Form- Granite Advantage Health Care Program" (01/19) along with any required third party verification(s) to the department.

He-W 837.14 Attestation and Verification of Request for Good Cause.

(a) All attestations and verifications under this section shall be on or included with BFA Form 340 "Good Cause Request Form Granite Advantage Health Care Program" (01/19) and under penalty of unsworn falsification pursuant to RSA 641:3.

(b) A request for good cause shall be attested to and verified as follows:

- (1) For a beneficiary who experiences the birth or death of a family member residing with the beneficiary, attestation of the event to include the name of the family member, the date of the event the family member's relationship to the beneficiary, and the number of days impacted;
- (2) For a beneficiary who experiences severe inclement weather, including a natural disaster, and therefore was unable to meet the requirement, attestation of the date(s) of the severe inclement weather or natural disaster and the number of days impacted;
- (3) For a beneficiary who has a family emergency or other life-changing event such as divorce, attestation of the nature of the family emergency or life-changing event to include the date(s) and the number of days that the beneficiary was unable to participate due to the circumstance;
- (4) For a beneficiary who is a victim of domestic violence, dating violence, sexual assault, or stalking;

- a. A copy of a court order which indicates the beneficiary was the victim of domestic violence, dating violence, sexual assault or stalking; or
 - b. Self-attestation of domestic violence, dating violence, sexual assault or stalking in accordance with the Violence Against Women Reauthorization Act of 2013 under 24 CFR section 5.2005 and 24 CFR section 5.2009; and
 - c. The date range specified in the court order or the number of days impacted;
- (5) For a beneficiary who is a custodial parent or caretaker of a child 6 to 12 years of age who, as determined by the commissioner, is unable to secure child care in order to participate in qualifying community engagement either due to a lack of child care scholarship or the inability to obtain a child care provider due to capacity, distance, or another related factor. A beneficiary shall provide a monthly attestation of the inability to secure child care and the number of days impacted;
- (6) For a beneficiary who has a disability, and was unable to meet the requirement for reasons related to that disability, but was not exempted from community engagement requirements the following:
- a. Attestation that the beneficiary was unable to meet the community engagement requirement for reasons related to the disability; and
 - b. Certification by a medical professional of the beneficiary's inability to meet the community engagement requirement for reasons related to the disability;
- (7) For a beneficiary who resides with an immediate family member who has a disability, and was unable to meet the requirement for reasons related to the disability of that family member, but was not exempted from community engagement requirements the following:
- a. Attestation of the number of days the beneficiary was unable to meet the community engagement requirement for reasons related to that disability; and
 - b. Certification by the family member's medical professional specifying the family member's disability and the duration, if known;
- (8) For a beneficiary who experienced a hospitalization or serious illness, but was not exempted from community engagement requirements; attestation of the number of days of the hospitalization or serious illness and copies of the beneficiary's physician, hospital or other medical records that would substantiate the hospitalization or serious illness;
- (9) For a beneficiary who resides with an immediate family member who experienced a hospitalization or serious illness, but the beneficiary was not exempted from community engagement requirements the following:
- a. Attestation of the number of days of the hospitalization or serious illness; and
 - b. Copies of the family member's physician, hospital or other medical records that would substantiate the hospitalization or serious illness; or

(10) For a beneficiary who is homeless or unable to find stable housing, attestation by the beneficiary of the circumstance.

(c) A request for a finding of good cause under this section shall not be approved until the required attestation and verifications are received by the department.

He-W 837.15 Crediting a Finding of Good Cause Toward the Required Community Engagement Hours.

(a) A finding of good cause shall be credited toward the monthly community engagement requirement as follows:

- (1) For a beneficiary who experiences the birth or death of a family member residing with the beneficiary, self-attestation of the number of hours that the beneficiary was unable to complete due to the circumstance at 8 hours per day;
- (2) For a beneficiary who experiences severe inclement weather including a natural disaster, self-attestation of the number of days the beneficiary was unable to participate due to the circumstance at 8 hours per day;
- (3) For a beneficiary who has a family emergency or other life changing event such as divorce, self-attestation of the number of days the beneficiary was unable to complete due to the circumstance at 8 hours per day;
- (4) For a beneficiary who is a victim of domestic violence, dating violence, sexual assault or stalking, the date range specified in the court order or self-attestation of the number of days the beneficiary was unable to complete due to the circumstance at 8 hours per day;
- (5) For a beneficiary who is a custodial parent or caretaker of a child 6 to 12 years of age who is unable to secure child care in order to participate in qualifying community engagement, self-attestation of the number of hours the beneficiary was unable to complete due to the circumstance at 8 hours per day;
- (6) For a beneficiary with a disability who was unable to meet the requirement for reasons related to that disability; the date range specified by the beneficiary's medical professional at 8 hours per day or if no date range is indicated, 100 hours for one month;
- (7) For a beneficiary residing with an immediate family member who has a disability, and was unable to meet the requirement for reasons related to the disability of that family member; the date range specified by the family member's medical professional at 8 hours per day or if no date range is indicated, 100 hours for one month;
- (8) For a beneficiary who experiences a hospitalization or serious illness, but was not exempted from the community engagement requirement:
 - a. For inpatient hospitalization, 100 hours for one month; or
 - b. For outpatient hospitalization or serious illness, the date range specified by the beneficiary's medical professional at 8 hours per day, or if no date range is indicated attestation of the number of hours at 8 hours per day;

(9) For a beneficiary who resides with an immediate family member who experienced a hospitalization or serious illness, but the beneficiary was not exempted from the community engagement requirement:

- a. For inpatient hospitalization, attestation of the number of days the beneficiary was unable to complete due to the circumstance, at 8 hours per day; or
- b. For outpatient hospitalization or serious illness, the date range specified by the family member's medical professional at 8 hours per day or if no date range is indicated, self-attestation of the number of days the beneficiary was unable to complete due to the circumstance at 8 hours per day;

(10) For a beneficiary who is homeless or unable to find stable housing, attestation of the number of days the beneficiary was unable to complete due to the circumstance at 8 hours per day;

(11) For other good cause:

- a. Attestation on BFA Form 340 "Good Cause Request Form Granite Advantage Health Care Program" (01/19) of the circumstance beyond the beneficiary's control which relate to the beneficiary's ability to obtain or retain a qualifying activity to participate in, and the number of hours the beneficiary was unable to complete at 8 hours per day; or
- b. For the reporting of extra employment hours as good cause pursuant to He-W 837.12(b)(11)(a)(1)(b); the number of extra employment hours that the beneficiary is reporting for the month. The reporting of additional employment hours as good cause under this section shall be limited to 2 consecutive months and shall be attested to on BFA Form 340 "Good Cause Request Form Granite Advantage Health Care Program" (01/19).

He-W 837.16 Notice Period.

- (a) A beneficiary shall have 75 calendar days beginning on the date of their eligibility determination to begin to meet the community engagement hour requirement.
- (b) Beneficiaries must begin to meet the community engagement requirement beginning with the first full month following any applicable 75-day notice period.
- (c) Upon the expiration of an exemption, a beneficiary shall have the 75-day notice period before they are required to meet the 100-hour community engagement requirement.

He-W 837.17 Suspension and Opportunity to Cure.

- (a) A beneficiary who is noncompliant with the community engagement requirement in a month shall be suspended at the end of the following month unless the beneficiary cures the noncompliance by:
 - (1) Satisfying the community engagement requirement by making up the deficit hours for the month that resulted in noncompliance;

- (2) Demonstrating good cause for the failure to meet the community engagement requirement in the noncompliant month; or
 - (3) Providing verification of an exemption status.
- (b) If a beneficiary fails to make up the deficit hours for the month that resulted in noncompliance or fails to demonstrate good cause or an exemption status, the department shall suspend the beneficiary's eligibility effective the first of the month following the one-month opportunity to cure.
- (c) The suspension shall remain in effect until the beneficiary reinstates eligibility by:
- (1) Satisfying within a single calendar month the deficiency in community engagement hours that resulted in noncompliance;
 - (2) Demonstrating good cause for the failure to meet the community engagement requirement in the noncompliant month;
 - (3) Meeting the qualifications for an exemption; or
 - (4) Becoming eligible for medicaid under an eligibility category that is not subject to the community engagement requirement.
- (d) Reinstatement shall be effective as of the date that the deficit hours are reported to the department or the date the department receives the required attestation or third party verification to establish good cause or an exemption.
- (e) Upon reinstatement in (d) above, a beneficiary's obligation to report community engagement hours shall restart on the 1st of the month following the month in which the beneficiary's eligibility is reinstated.
- (f) The deficit hours that are made up in the immediately following month for the month that resulted in noncompliance shall also be credited toward the community engagement requirement for the current month in which the hours are earned.
- (g) A beneficiary may reinstate eligibility prior to their redetermination date without having to complete a new application.

He-W 837.18 Limitation on the Repeated Consecutive Use of Curing to Meet the Community Engagement Requirement.

- (a) The repeated consecutive use of curing to meet the 100-hour community engagement requirement shall be prohibited.
- (b) Beginning May 1, 2020, a beneficiary who engages in the repeated consecutive use of cure for 12 months immediately prior to redetermination, or in a consecutive pattern of noncompliance followed by compliance and cure for 12 months immediately prior to redetermination in order to avoid the 100-hour community engagement requirement, shall be suspended at redetermination.
- (c) A beneficiary may reinstate eligibility under this section by providing 100 hours of community engagement within a single calendar month.
- (d) Reinstatement shall be effective as of the date the 100 community engagement hours are reported to the department.

(e) After, reinstatement in (d) above, a beneficiary's participation start date shall be the 1st of the month following the month in which the beneficiary's eligibility is reinstated.

He-W 837.19 Extra Hours. A beneficiary shall not be permitted to carry-over hours in excess of the 100-hour requirement in order to satisfy the community engagement requirement.

He-W 837.20 Disenrollment and Reconsideration.

(a) A beneficiary who is suspended for noncompliance with the community engagement requirement and fails to cure that suspension during redetermination shall be disenrolled from granite advantage. A suspended beneficiary subject to disenrollment shall be re-enrolled as follows:

(1) Within 90 days of disenrollment, a beneficiary may return to granite advantage by providing 100 hours of community engagement within a single calendar month;

(2) Upon the department's receipt of the 100 hours, the beneficiary eligibility shall be reopened as of the date that the hours are reported to the department; and

(3) The beneficiary's participation start date shall be the 1st of the month thereafter.

(b) A beneficiary who is compliant with the community engagement requirement at redetermination but whose eligibility is terminated at redetermination for other reasons may, within 90 days of disenrollment, return to granite advantage by:

(1) Satisfying any outstanding redetermination requirements;

(2) Upon satisfying any outstanding redetermination requirements, the beneficiary's eligibility shall be reinstated to the date of closure; and

(3) The beneficiary shall resume the reporting of community engagement hours the 1st of the month following the month that the outstanding redetermination requirements are met.

He-W 837.21 Re-Application.

(a) A beneficiary may reapply for medicaid at any time after disenrollment and the following shall apply:

(1) A beneficiary who was disenrolled at redetermination and who reapplies after 90 days but within 6 months and is determined eligible, shall begin to report community engagement hours on the 1st of the month following the month in which the application is filed;

(2) A beneficiary who was dis-enrolled at re-determination and who re-applies 6 or more months thereafter and is determined eligible, shall in accordance with He-W 837.16 have 75 calendar days from the date of their eligibility determination before they are required to meet the 100-hour community engagement requirement; and

(3) For purposes of this section, the 6-month period shall be calculated using 182 days (365/2 rounded down).

He-W 837.22 Screening for Other Bases of Medicaid Eligibility Prior to Termination, Disenrollment or Denial of Eligibility. Termination, disenrollment, or denial of eligibility shall only

occur after a beneficiary is screened and determined to be ineligible for all other bases of medicaid eligibility and reviewed for eligibility for insurance affordability programs in accordance with 42 CFR 435.916(f).

He-W 837.23 Appeals.

(a) A beneficiary may appeal the department's decision to deny an exemption under He-W 837.04, to deny a request for good cause under, or to suspend, deny or terminate the beneficiary's eligibility for failing to meet the community engagement requirement under He-W 837.03 by filing a request for an appeal with the department's administrative appeals unit in accordance with He-C 200.

(b) The department shall continue the beneficiary's eligibility after an adverse eligibility determination is made when the beneficiary:

- (1) Submits a hearing request to the local district office within 30 days from the date on the written notice of adverse decision; and
- (2) Submits a request to the local district office for a continuation of benefits during the appeal process within 15 days of the date on the written notice of adverse decision.

He-W 837.23 Acknowledgement. All beneficiaries shall execute an acknowledgement at enrollment that granite advantage is subject to cancellation upon notice.

He-W 837.24 Assessment of Compliance Rates in Labor Market Areas and Additional Mitigation Strategies. The department shall periodically assess compliance rates under the rule in labor market areas, within the state, that experience high rates of unemployment, areas with limited economies and educational opportunities, and areas with a lack of public transportation to determine whether additional mitigation strategies are needed so that the community engagement requirements will not be unreasonably burdensome for beneficiaries to meet.

He-W 837.25 Information and Assistance to Beneficiaries. The department shall provide information and assistance to beneficiaries, including information on community engagement activities, exemptions from participation in the community engagement requirement, good cause exemptions, and the opportunity to cure to facilitate beneficiaries' compliance with the program's community engagement requirement.

APPENDIX A: Incorporation by Reference Information

Rule	Title	Publisher; How to Obtain; and Cost
He-W 837.04(a)(1)a.	ASAM Criteria: Treatment Criteria for Substance-Related, Addictive, and Co-Occurring Conditions, 3 rd edition (2013)	<p>Publisher: American Society of Addiction Medicine (ASAM).</p> <p>The ASAM Criteria (2013) can be purchased online through the ASAM website at: http://www.asamcriteria.org/.</p> <p>Cost = \$95 (non-members) or \$85 (members). Discounts are available for large purchases.</p>

APPENDIX B

Rule Section	Statute Implemented
He-W 837.01	RSA 126-AA; 42 U.S.C. §12101 et seq.; Pub. L. No. 93-112; Pub. L. 111-148; 42 CFR 435.916
He- W 837.02	42 CFR 435.603(a)-(h)
He- W 837.03	RSA 126-AA
He W 837.04	RSA 126-AA; RSA 167:82,II(g); 42 CFR 435.4; 42 CFR 440.315(f)
He- W 837.05	RSA 126-AA; RSA 167:3-i; RSA 167:6, IV-VI; RSA 167:3-e; RSA 167:3-f; §1902(a)(10)(A)(ii)(XV); 42 CFR 435.4; 42 CFR 435.121; §1902(e)-(f); §1915(c); 42 U.S.C. Chapter 7; 42 U.S.C. 1381 et seq.
He- W 837.06	RSA 126-AA
He- W 837.07	RSA 126-AA; RSA 641:3; RSA 167:82,II(g)
He- W 837.08	RSA 126-AA; 45 CFR 475
He- W 837.09	RSA 126-AA; 45 CFR 400.75
He- W 837.10	RSA 126-AA; 42 U.S.C. §12101 et seq.
He- W 837.11	RSA 126-AA
He- W 837.12	RSA 126-AA; 24 CFR 5.2005; 24 CFR 5.2009
He-W 837.13	RSA 126-AA
He-W 837.14	RSA 126-AA; 24 CFR 5.2005; 24 CFR 5.2009
He-W 837.15	RSA 126-AA
He-W 837.16	RSA 126-AA
He-W 837.17	RSA 126-AA
He-W 837.18	RSA 126-AA
He-W 837.19	RSA 126-AA
He-W 837.20	RSA 126-AA
He-W 837.21	RSA 126-AA
He-W 837.22	RSA 126-AA; 42 CFR 435.916(f)
He-W 837.23	RSA 126-AA
He-W 837.24	RSA 126-AA
He-W 837.25	RSA 126-AA